



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

THE
AMERICAN LAW REGISTER.
DOUBLE NUMBER.

NOVEMBER & DECEMBER, 1860.

REMARKABLE CRIMINAL TRIAL.¹

THE WATCHMAN OF ELDAGSEN.

In Eldagsen, a small town in Hanover, was living, in the early part of 1854, one Hartmann, an excise collector, with his wife. They had been married some fourteen years, but none of their four children had survived to the period we are speaking of. In February of the year just mentioned, Mrs. Hartmann was again expecting to be brought to bed of another child. Her step-son, a youth of nineteen years, was not at the time residing with them, and the household consisted only of themselves and one servant, a decent and reputable girl, of about seventeen years of age.

On the 16th February, 1854, Hartmann left home for the purpose of getting change for some gold. This was about seven o'clock. His wife was lying on the sofa, a lamp was on the table beside her, and the servant was clearing away the supper, as usual. As Hartmann went out, a few kindly words passed between himself and his wife, whom he was never again to see alive.

The evening was gloomy, with snow falling, as Hartmann, wrapping himself in his cloak, hurried down the street to the house of a Mr. Meyer, where he remained longer than he had intended. He heard, indeed, the watchman's evening horn blowing, which is

¹ London Law Magazine for August, 1860.

sounded at nine, and is repeated on the rounds every hour. He set out from Meyer's house about half-past nine. On his return, looking through the window, he did not see his wife on the sofa. He called to the servant. Obtaining no reply, he opened the door, and found the girl lying on the floor covered with blood, and, as he supposed, in a fit, to which she was subject. He sought in vain his wife in the inner room. Horror-stricken, he shouted for help. A neighbor and his daughter hastened to his assistance, and, with the aid of a light, the unhappy wife was found on the floor, bathed in blood, between the sofa and the table. In the meantime other people arrived, who deemed it necessary forthwith to take Hartmann away from the horrible scene, as he had fallen into a state of distraction, in which he remained for many weeks.

The two women had been cruelly murdered ; their skulls were fractured and their throats cut, but no marks of blood or hard struggling were found spread on the floor. The doors in the house stood open, but the bureau, in the sitting-room, had been forced. The private box of Hartmann, which, he said, contained some hundreds of dollars, as well as the trinkets and ornaments of his wife, was gone.

When the surgeon who was called in appeared, he found the bodies cold and stiff. The blows and the wounds on both the women were alike of a mortal description.

The police authorities made a close examination of the house and neighborhood. There were no traces of the murderer, but a visitation to the houses of suspected people was immediately entered on. Amongst others, Ziegenmeyer (a baker) and Busse (a mason) were called on. These had supped together, and had been out in company this evening. They were, however, though strongly suspected, not then taken into custody, but the opposite neighbor of Busse was set to watch him, and his observation of the conduct of the suspected man resulted in his report, that twice in the same night a light was kindled, and twice had some one gone up and down stairs, and that the wife, next morning, had been observed to "wring her hands over her head, and then let them fall on her lap, *as if* she was in grief and agitation." Herrmann, a police agent from Hanover, arrived at the spot the next day, set on foot inquiries, and

undertook the investigation. He examined, amongst others, the two men Ziegenmeyer and Busse, with respect to their doings on the night of the murder. Ziegenmeyer gave, in a hurried and embarrassed fashion, his account of himself, which created in Herrmann's mind a strong suspicion of the man. A discrepancy in their statements was perceived. The former deposed that after supper he had gone straight to the house of a notary in the town, to speak about a lawsuit, and the other man declared that he had remained with his friend in his house till nine o'clock. In Busse's house was found a hammer, one point of which appeared to have been very lately thrust into the fire, "*as if to remove marks on it;*" but there still remained a dark stain, which was clearly perceptible. Besides these facts, nothing further tending to criminate either of the men was discovered, though their clothes, their ordinary dress, which they had worn on the evening in question, were examined; nor could any thing conclusive be drawn from the facts discovered. And now suspicion for the moment was directed by the town talk to others. It was whispered that Hartmann himself was the guilty man, and that the wench was pregnant by him; and many other opinions were expressed, but equally groundless and vain.

The mystery was still unsolved, when, on the 17th March, Busse and Ziegenmeyer were again arrested on new information, under the following circumstances: It appeared that a man named Wild had been appointed, three days after the murder, as a watchman¹ in Eldagsen. It was made his especial duty to exercise surveillance over the house of Busse and Ziegenmeyer. On the 13th March, a month after the event had occurred, this man deposed before the burgomaster, that at seven o'clock on the evening of the murder, he had left home and had reached Hartmann's house, and was on the opposite side of the road, when he saw the two suspected men advancing towards him. He saw them suddenly before him, and he had an opportunity of seeing that they had not been walking on the road

¹ *Stillwächter.* His duty was to watch at night, *without* making a noise with a horn to inform ill-doers of his approach. The horn-blowing police carried on their duties much after the fashion of the old London watchmen, and with probably the same happy result, that of protecting *themselves* at least from contact with robbers.

on either side of the house just previous to their appearance. When asked why he had not made this communication earlier, he replied he was afraid so to do until he was invested with the official character of constable. He added that, whenever Busse met him, he made threatening gestures at him. Official inquiries as to character were made, and it was reputed that Wild was a very correct and creditable man, while the accused were in bad repute, and had been engaged in no work during the winter, and must, therefore, have obtained their living by other means. On further examination, Wild repeated his statement with additional particulars. Moreover, a man of the name of Müller deposed, that on the 15th February he had remarked Busse prowling in the neighborhood of Hartmann's house. And one Schwaize alleged, that at seven o'clock on the night of the murder he had seen the two men in company leaving Ziegenmeyer's house. These facts were held as accumulating important evidence against the two suspected men.

The town had now become full of fear, and resorted to various superstitious practices with a view to solve the mystery.

The lower classes had recourse to the divinations of the "Key and Hymn-book." Widow Haller, the mother-in-law of Wild, was especially expert in this art. The book is, according to this ancient and valuable mode of incantation, set a-swinging, with the key tied inside it on a particular song of prayer or praise, and interrogations are administered to it as to names and circumstances, to which it vouchsafes answers by regulating its motion in accordance to prescribed rules. This valuable auxiliary to criminal procedure, we may observe, might, with spirit-wrapping and table inspiration, be introduced perhaps in some of the continental courts of justice with at least as good an effect as certain other parts of their judicial system; and in England we suspect it would be an equally appropriate court of criminal appeal as that of newspaper editors and correspondents, which we have recently seen constituted after a late conviction for poisoning. It is interesting to know that the book-appeal convicted Busse and Ziegenmeyer, just as the newspaper appeal lately acquitted Smethurst. The popular voice in Eldagsen, indeed, universally condemned the two men. The government had offered 100 dollars

reward on the conviction of the murderers, and the following communications were made in consequence :

1. Busse is a terror to the neighborhood.
2. Busse was some years since apprehended for stealing oats.
3. Busse was once suspected with regard to a widow found drowned.
4. Likewise, in 1853, with relation to some trees on the roadside.
5. Busse's wife had been seen to hold a great consultation with her husband the night after the murder, and no one could make out why.

One or two more circumstances of equal importance were elicited, thus, that he was forty-nine years old, and had been, moreover, many years before, sentenced to be imprisoned for eight months for theft ; whilst Ziegenmeyer was thirty-five years of age, and had NOT been convicted.

On March 17, these men being again taken into custody, further inquisition into how they had spent their time elicited no incriminating facts so far as can be seen, except that they had been in company that evening. It was thought worthy of record, however, that Busse had sought to borrow money for Ziegenmeyer ; and that, after he had been drinking schnaps, he introduced himself to a friend with “Here comes the murderer !”

Wild not only adhered to his identifying the two men on the night in question, and described the dress, but now added this further statement :—“The night following the murder I was taking my rounds, and went under the bed-room window of Ziegenmeyer and his wife, and heard them talking of money ; and the former said quite distinctly, within the hearing of the witness, that he (Ziegenmeyer) had settled the wench, and Busse the woman ; and that the woman had kicked and had a pitiable death.” This confession was conclusive, if true ; and the next step taken was to investigate out the reputation, still more closely, of the parties, and so to discover the *probabilities*. The magistrates gave an indifferent character to Ziegenmeyer. He owned a few acres of land, but these were mortgaged for £200. The clergy had but a bad impression of him, through his indifferent character and his non-attendance at church.

Whilst of Wild, it was reported that he was a very correct person, a *good church-going man*, and attended service and communion with laudable assiduity, and was much respected. This testimony of Wild's character was all the more essential, as his evidence had been tendered bit by bit, and was not very connected, but, indeed, vacillating. His evidence with regard to Busse's dress seemed incorrect; nor did the police fail to observe that no marks of blood, nor the possession of deadly weapons, could be traced home to the accused.

About a fortnight after the second apprehension of these men, a curious piece of evidence, characteristic of the German procedure in criminal cases, was brought forward. Ziegenmeyer's little daughter, four years old, was heard telling a story to her companions about the murder. She said, "Busse killed the mistress, and father killed the maid;" and, she added further, when interrogated by a neighboring gossip, "Father and Busse brought home 100 white dollars; father had blood on his boots, which mother wiped off; and Busse's sleeves was covered with blood." Upon which the child's mother slapped her, and bade her hold her chatter. But, in the mean time, doubts were thrown on Wild's evidence, as it was alleged that, on the night of the murder, he had been ill at home, and it was not probable he could have been in the street as he alleged; but no great weight seems to have been attached to this point.

On the 20th June, another witness (Müller) was brought forward, who deposed that he had gone to Ziegenmeyer's wife and pretended he knew all about the murder. She had confessed that "Busse had done the deed, and if her husband was implicated, the former had seduced him to the act." She gave, however, a very different version of the conversation, alleging that Müller had come to her and said, "He knew all about it, and unless she would yield to his lust he would inform against her husband." She had, however, rejected his advances, and said, "If her husband was guilty, let them punish him."

In the following October the proceedings were ripe to be laid before the various courts before which such criminal proceedings must pass; and a difference of opinion was found to exist in the

judgment of one section. The case was incomplete, and the prosecution was recommended only to be dropped. Another division of the functionaries came to an opposite conclusion, and the result was, that directions were given to prosecute the two prisoners for the murder, as well as to investigate another charge of robbery on one Topp, which had been also laid against them. The evidence, of which we have already given a sketch, was investigated with additional detail, involving much hearsay evidence, many contradictions as to time, dress, and other circumstances connected with the prisoners, and also tending to inculpate others. For example, a Mrs. Buddensiek deposed that she had invited Busse, as soon as she heard of the murder, to walk up with her to Hartmann's house and see the corpses; but he refused, and lay down in bed again, saying he could not bear to see such things, which Mrs. Buddenseik thought very odd, as Busse was fond of seeing what was curious and strange. But it was thought, at the same time, a very suspicious circumstance against Ziegenmeyer, that *he* had run off immediately to Hartmann's house when he heard of the murder. Every thing that anybody in Eldagsen had said, thought, or supposed with relation to the murder, was considered in evidence; and on the 18th November, 1854, the court laid a formal information against the prisoners for the murder of Mrs. Hartmann and her servant; and for the theft of some goods of one Topp; and against the prisoners' wives as accessories to the murder.

On the 7th of December, 1854, the charges were opened before a jury of twelve sworn assessors, comprising three lawyers, four merchants, one tradesman, two landowners, one hotel keeper, one postmaster, and one land agent. Several new witnesses were now called to speak as to the hour when the murder must have taken place.

One Wollenweber heard, at a quarter to eight, cries of agony issuing from Hartmann's house; and that this was the exact period of the murder seemed substantiated. Mrs. Klammroth was quite clear (and her evidence was corroborated by others) that Busse and Ziegenmeyer came home together to Busse's house *between* half-past seven and a quarter to eight. That Busse wore then a light gray jacket, five witnesses deposed.

When the chief witness Wild gave evidence, the official report declared that it was not ready, connected, or consistent. Thus his first statement was, that he had been going his rounds as watchman the night next after the murder, (17th February,) and had *then* heard the admission of Ziegenmeyer under his window. Whereas, in fact, he *was not appointed* watchman till the 22d February. He then fixed three or four days later for the occasion, and eventually the twelfth day after the murder. He then declared his earlier statements had been misunderstood, but this he failed to render obvious to the court. He affirmed also, stoutly, that though it was a dark night he could identify the men with certainty; and that Busse had on a blue smock. It was also made a question whether Wild had really been out at all on the particular night of the murder; and it did not appear that he had narrated anything of what he had seen and heard even to his wife.

The court, however, gave ear, it would seem, to evidence of remarks made by Mr. Hartmann, to the effect, that if the affair had happened some years since he would have married again; and attempts were made to criminate him either as a conspirator with the two accused, or independently. But, although all this was good illustration of what people will say when their suspicions are excited, and their loose tongues allowed free play, it came to nothing on being considered.

Without Wild's and Müller's evidence, there was little ground even for suspecting the two accused men; but it was urged that three courts¹ had agreed on their guilt, and on submitting the evidence to the jury, the president of the court eventually left to them the question whether Busse and Ziegenmeyer were guilty or no. After long discussion they returned a verdict of guilty, and the sentence of the court condemned the prisoners to death.²

Ziegenmeyer was horror-stricken at the verdict and sentence. He sent to his advocate the same evening, and solemnly protested

¹ Viz: the Staatsanwaltschaft, the Rathskammer, and the Anklagekammer.

² The penalty for this crime was more severe in its character than common execution, for the convict was to be dragged to execution on a cow-hide!

his innocence, but was assured there was no prospect of escape. The next morning he was found hanged in his cell.

Busse more calmly or doggedly awaited his fate, but the sentence was not, however, immediately carried out. To him was graciously accorded, on 13th February, 1855, the doom of perpetual imprisonment in chains, which was to be embittered by his being, on the 15th and 16th February in each year, (the anniversary of the murder,) consigned to a dark dungeon. He once more saw his wife, and bade her be of good cheer, for he would yet be free. Ziegenmeyer's property was sold, and his wife and children turned out into the world to beg or starve. And so the good people of Eldagsen were satisfied, and justice was vindicated, and the tragedy was thought to have been played out. The gossip and rumors which had been turned into evidence, the prejudice and suspicion which had been elevated to the dignity of legal testimony, had now done their work. The suicide of the one convict was accepted as proof of conscious crime, the persistent resolution of the other as the hardihood of a confirmed villain.

The neighborhood of Eldagsen, however, was not destined to remain free from further outrage. It happened that at Weetzen, a village not far from Hanover, lived an aged captain of the name of Götz, no longer in the service. He had recently married the young widow of the owner of some landed property. She was reputed to be well off, and she and her husband lived on the estate. On 1st September, 1855, the couple had retired to rest for the night, but the lady was ill, and could get no sleep. About twelve o'clock the husband had risen to attend to his wife, and then, putting out the light, they once more returned to bed and fell asleep. Suddenly the wife awoke with the sensation of receiving a violent blow on her head. Jumping up she received another on her face, but was able to reach the next room, when she seized the bell and rung violently, and then fell senseless to the ground. Her husband was likewise struck on the head violently. The servants, hearing the alarm, rushed to help, and a doctor was fetched.

On searching the room, an axe was found covered with blood. Neither of the wounded people had seen any thing, but they thought,

until the axe was found, that they had been struck by a stone cast at them through the window. Some one had, however, certainly been *in* the room, and escaped by the window, which was broken. For a fortnight Madame Götz was in great danger, nor was it till ten weeks had elapsed that she became convalescent.

Suspicion soon fell on a certain man of the name of Bruns, a discharged servant of Mr. Götz. There were traces of blood on a bough of the tree, which the assassin had grasped in his descent from the window. The foot-tracks led to the high-road. Bruns had been with a girl to whom he was affianced, on the evening in question, and who lived in Gehrden, hard by, but he was at home between seven and eight in the afternoon, and had been seen in bed at half-past five the next morning. Though this looked *prima facie* like an *alibi*, the police agent, Herrmann, who, it will it be recollect, had been active in the prosecution of Busse and Ziegenmeyer, still had his suspicions. On the 2d September, he, therefore, repaired to his house, and noticed first of all a wound on the hand of Bruns, which the latter accounted for by a very credible explanation. Herrmann, therefore, had recourse to a professional expedient. Unobserved he placed the axe in the room, and then casually asked the parents of Bruns whose axe this was. Each claimed it as belonging to themselves; and, moreover, the father declared that this axe, which was generally in his own room, was, on this night, taken into his son's. Bruns was thereupon taken into custody, and he admitted that on the night of the outrage he had visited his betrothed. He was taken to Hanover by Herrmann, who, on the road, managed to make a piece of evidence thought worthy of record in these proceedings. He exclaimed, "Good heaven, what must be your feelings!" to which the *prisoner answered nothing, but sighed!* On 3d September, Bruns, however, broke silence, and confessed, it was alleged, that out of revenge he had assaulted the unfortunate couple, but declared he had had at first only the intention of breaking their windows.

In Herrmann's mind another idea had been excited. The nature of the crime, and the character of the wounds, impressed him with the notion that the same man and the same weapon engaged in the

act at Weetzen had done the deed at Eldagsen. He had entertained doubts and mental discomfort about the conviction of the other two men, in which he felt he had taken too active a part, and he resolved to sift the case to the bottom. He therefore set off to find Louisa Sprengel, the betrothed of Bruns; and lo! in her ears *were the rings of the murdered Mrs. Hartmann!* This led to further search, and other of the poor exciseman's wife's trinkets were, in spite of the denial of their possession, found in Louisa's lodgings. She acknowledged that Bruns had given her these things, and Herrmann, thus confirmed in his belief, hied him once more to Bruns' house, and there found the metal box in which Mrs. Hartmann was wont to keep her valuables, and which had been stolen at the time of her murder. This evidence was forthwith brought before Bruns by the police officer, who asked him to explain these circumstances. This he did by alleging that he bought the trinkets at Eldagsen, except one which had been given him by a girl to whom he had been previously engaged. He said he never had a metal box, as described, at all. When it was shown him, however, he was struck dumb, but still would not confess.

Expedients were therefore resorted to by the police authorities to obtain a confession; and we may here observe that the English rules of protecting the accused against making admission of guilt may seem theoretically absurd, and occasionally may preserve villains from meeting their due punishment, yet, in the proceedings here narrated, the moral and legal inconveniences of trapping even the guilty into a confession to be used on the trial, instead of proofs, are notably illustrated.

A fellow-prisoner of Bruns, Wolfersdorff, was employed to induce Bruns to make a clean breast, and on 6th September gave information that he had succeeded—a statement, the truth of which the authorities had the strongest reasons afterwards to doubt. Whereupon a police constable, Brüdern, was introduced to perfect the arrangement. He pretended that he was come to keep watch over Wolfersdorff, but presently began to narrate how a certain man of the name of Bruns was said to have after all committed the Eldagsen murder. Bruns trembled. His companion then proceeded

to dwell on poor Ziegenmeyer's fate, and that of his unhappy children begging their bread. He further encouraged Bruns to confide his griefs to him, and so wrought on him that, seizing the crafty policeman's hand, he confessed, as Brüdern declared, every thing. As Brüdern next morning left the prison, Bruns besought him to procure for him a clergyman.

On the 7th September, Bruns made ample confession before the sitting magistrate, which was to the following effect:—On the evening before the murder of the Hartmanns, on the 15th February, he had gone to their house to buy a stamped paper, in order to use it in an agreement with Götz. The next day, as he passed the house, the thought struck him "that something was to be got there." He knew that the collector's cash-box would at that time of the month be full; and he thought it would be found in the back room. He sought to enter by the back door; failing in this, he cautiously opened the front door. He had then looked into the room on the left hand. He found it so dark that he was about to seek a light in the kitchen, when the reflection from the opposite house enabled him to dispense therewith. In searching for the candle, however, he had found a hatchet, and taking this, he again repaired to the ground-floor. He here met the serving-girl with a light in her hand. She recognized him, as she stepped back into the room, as "the man who was there last night," and set the light down on the table immediately. He instantly rushed behind her, and struck her with the weapon on her head, so that she fell speechless to the ground. Then, for the first time, he observed Mrs. Hartmann, who was rising from the sofa, probably with the intention of leaving the room. At her, also, he immediately aimed so deadly a blow, that she dropped without a word. He then proceeded to rifle the bureau with the aid of the instrument in his hand. After completing his theft, he observed his victims stir somewhat, though he heard no sound from their mouths; upon which he grasped a knife, and cut the throats of both the women. Now a horror seized upon his mind, and he threw away the hatchet in the house, and the knife into the street, washed his hands in the brook, and reached home safely.

It is worthy of note, that at this period Bruns was in service with a person of the name of Jasper; and being much trusted, he was, after the murder, especially engaged in the house to protect the females, and in the evening was wont to take his place in their sitting-room for that purpose.

After this confession before the sitting magistrate, the man became deeply affected, wept, and begged for a clergyman. He felt, he said, his conscience unburdened, now that he had told the whole truth. He saw how great a sinner he was, and he repented bitterly. It is, however, a curious fact, but one not rarely recognized in the mental condition of men like Bruns, that at this very moment he was mis-stating and keeping back a part of the truth. In what respect he was attempting to deceive, we shall presently see. Again, as regards the Weetzen outrage, it is extremely improbable that he was acknowledging the truth, though he never would vary his statement. When appealed to with respect to this latter outrage, he, a man whose life was already forfeited, and who, therefore, should have had no object any longer in denying the facts connected with the affair, had it pressed upon him that his taking with him to the house of Götz the deadly instrument, and his using it in an analogous, though happily not so successful, a fashion as at Eldagsen, were very suspicious circumstances; but he replied that, although appearances were against him, he must persist that neither theft nor murder had then been his object, but to break his old master's window out of revenge. When the priest came, Bruns, on his knees, again repeated the whole narrative above given.

A witness, moreover, at the time turned up, who had seen the trinkets which Bruns had subsequently given to his second lover, formerly in the possession of the first. Wild, too, the main witness against Busse and Ziegenmeyer, had now fallen into discredit with the authorities, for (*inter alia*) claiming the blood-money, which he had previously renounced, lest his veracity should be thereby impeached.

Turning for one moment to the fate of the convict Busse, we should record that on the 12th Decemcer the State Department

received a petition from him, being then in prison at Lüneberg, in which he prayed that six witnesses therein named might be examined, whose testimony would certainly bring him back once more to freedom; and further, indeed, he urged that the evidence already given, which had been mistaken by the courts, might be reconsidered. He added: "My weakness is too great here to enter upon these points." On 2d January, 1856, Busse's petition was taken in hand. He showed how his pastor's evidence in criminating his religious character, and the burgomaster's in disparaging his industrious habits, were false, and the other witnesses testimony tended to bear out his exculpation. It still was needful, however, in order to satisfy justice, notwithstanding the confession of Bruns, to be clear that the latter had *alone* committed the murders.

Bruns was therefore indicted, and put on his trial for these murders, *either* in conspiracy with others or alone; and also for assaulting and wounding Götz and his wife, on 1st September, 1855.

On the 26th March, 1856, two years, therefore, from the time of the Eldagsden murder, Bruns was brought to trial, and, to the astonishment of all, when called on to plead, *pleaded not guilty*. He alleged that he had been pressed and forced into his confessions, which were not true—that the trinkets and ornaments found in the possession of his betrothed he had found about Easter, 1854, before the house of Mr. Hille, in the upper town of Eldagsen, wrapped up in a blue paper. He thought they belonged to a woman passing on just before him; and he responded, in his examination, in other particulars plainly enough. As to the threats employed, though the *magistrate*, who first investigated the case, certainly had not used them, yet Bruns thought he must stand by what he had said under the pressure of Herrmann, the constable.

The truth of this allegation of the prisoner was of vital importance, and the court had to enter upon the inquiry. Both Brüdern and the turnkey, Wortmann, denied the charge of undue pressure having been exercised towards the prisoner, but their conduct seemed open to grave suspicion; whilst that of the policeman, Brüdern, was certainly even less free from doubt; and there was good reason to doubt the credit of Wolfersdorff, which had indeed been too readily

accorded. For example, one of the alleged points of confession was, that Bruns stated that when he had bought the stamp, Hartmann had put the groschen with the rest of the money: whereas Hartmann recollects that the coins being from the Brunswick mint, he had actually put them in his pocket, and not deposited them with the rest of the tax-money. There was no reason why Bruns should have invented such a minute falsehood; but it was a likely piece of small evidence to be furnished by a lying witness. Further, it was clear that the first day *after* the confession, Bruns actually had been immediately relieved of part of the prison discipline—that of the strait-jacket.

On the other hand, the confession was of a very detailed and close description. The prisoner accounted for this by saying, that his acquaintance with the depositions on the former trials had enabled him to supply the minutiae. The fact, *e. g.*, of the light thrown into the kitchen from the opposite house was tested by experiment; and the finding a hatchet in the kitchen was thought an important and corroborative fact. Traces of blood had also been noticed on the hatchet when first found, which was deemed an important fact, notwithstanding that it also appeared that the instrument had been also used for cutting off ducks' heads, and the marks in question were very old. It seemed, moreover, that Bruns had been flush of money; but no one had observed in him the least change of demeanor during the exciting time of the murder and its investigation.

The probabilities on the whole evidence had now to be considered by the jury, and they returned eventually the verdict of GUILTY against him; and he was condemned to be executed, just as poor Busse and Ziegenmeyer had been condemned a twelvemonth before.

When all hope had vanished from him, he again resolved to make a full confession, which differed in certain respects from the former one, and by no means justified all the conjectures and inferences which, in the course of his trial, his judges made with respect to certain facts, so dangerous in criminal trials is the habit of drawing on the speculations of the probable, instead of accepting the facts only which are proved, and their necessary consequence. In the

former confession, Bruns had told how he had gone down to the kitchen for a light, which he could not find, and how the reflection from the neighbor's house had answered his purpose. This, he now acknowledged, was mere invention on his part; so, too, the detail about his finding in the kitchen the hatchet which he had used for the purpose of the murder, was a fiction. "I gave," he now admitted, "a wrong account of the hatchet in order to screen myself to some extent. I washed my hands," he continued in this last confession, "with my handkerchief; I threw it away, and I have often wondered that it was never found. I got home at the latest at a quarter past eight. There was only a little blood on my nails, which I washed off next morning. On the back of the hatchet there was also blood, which I wiped away easily. I put the hatchet, on the evening after the murder, into the kennel, and next morning brought it again into the stable. Though I had a pocket-knife with me, I did not use it to cut the women's throat, but one which I found in the room, and which I afterwards threw away." He added other particulars, which, being of no particular interest, we, for sake of brevity, will not attempt to recount. We may add, however, that he exonerated Busse entirely; and further declared that it was not want or poverty which drove himself to commit the horrid deed.

The next act in this judicial tragedy sees *both* the unfortunate convicts, Busse and the confessed murderer Bruns, once more before the court. *Both* were now again put on their trial according to the cumbrous and self-stultifying proceedings of the country. Busse, with his tall, well-knit figure—fixed eye, glancing from under his bushy brows—his black hair thinned by his dungeon life, which seemed, moreover, to have broken his defiant attitude; Bruns, small and fair,¹ carefully dressed and arrayed. He never moved his eyes from the judge, but exhibited throughout the greatest intelligence and acuteness. And there also, on the table, between the jury and the prisoners, lay the two skulls of the unhappy murdered women—

¹ His profile is declared to have closely resembled Schiller's. To physiognomists must it be left to decide whether Bruns was or ought to have been a poet, and was lost to the world by misfortune, or Schiller ought to have been, and was in heart, a *robber*—a character his first play shows he well appreciated.

a sight terrifying to the guilty conscience, and appealing, as it were, for justice at last. The head of the girl exhibited one great fracture, with the bone which had been broken away lying underneath. That of the woman lay split into two pieces. He adhered, however, to his confession, adding that, from his fright, he could not remember all the details of the ten or fifteen minutes during which he was in Hartmann's house.

What seemed to puzzle the court was the question, why Bruns had not prosecuted his robbery into the little room of Hartmann, where the chief plunder, viz: that of the excise money, was to be had. To the importunity of the judge on this point, he aptly replied: "Mr. President, you may imagine the reason better than I can tell you. When one has placed himself in the position I had, he does not think much of money."

One cannot help suspecting, notwithstanding the confession, that the man took his own axe, and proceeded that night to the house with the preconceived intention of robbing, and murdering, if need be, all who interfered with his project; and it is probable his visit the night before was with a similar purpose, which accident alone baffled. It seems improbable that, both at Eldagsen and Weetzen, this man should have his axe with him; and, going for the purpose of using it as a tool, he should be induced to use it as a weapon.

The exact time of the murder was supposed, on this occasion, to have been arrived at. It was about half-past seven when Wollenweber deposed to hearing frightful cries in the house; and he "remained there ten minutes, till the sounds ceased." He said he thought the sound was of "the women who were trying to sing, but could not manage it;" but his imitation was like a groan.

On 23d September, 1856, Bruns was convicted and condemned to death; Busse was acquitted.

The hard character of Bruns is illustrated by his bearing during the trial. He could not forbear from saying, in joke, that he had a right to exact a fee from the multitude who thronged to see him tried. Nor was his tranquillity disturbed, except for the moment when the verdict was delivered. He remained till his execution perfectly at ease.

One curious circumstance may here be noticed. It seems that the poor murdered girl, a fortnight before she met her fate, had told a companion of a horrid dream she had had—that she and her mistress had been murdered in bed. Unfortunately for the dream, *two persons, a man and a woman*, were the murderers. Had this been left, like many cherished mysteries, unexplained, and if the murder had not been brought home to one man, it would have formed a valuable testimony to the virtue of prophetic dreams. It turned out, however, that she and her mistress had both been alarmed some days before the dream, by two suspicious, ill-looking faces, peering through a window at them.

And now Wild was put on his trial for perjury. Not less than fifty-five witnesses were called. We cannot here follow the trial, in which is well exhibited the way in which his false evidence had been commenced, received, fostered, and perfected, its inconsistencies and improbabilities been overlooked and bolstered up, a cruel conviction secured, and a judicial murder on Ziegenmeyer committed.

But we will here briefly review the evidence on which the innocent were found guilty. This was done on the occasion of Wild's trial, too late, alas! for the ends of justice. Viewed by the light of the subsequent trial of Bruns, and his confession, the court could not help seeing how the truth had been perverted, and how the habit of leaning always against the accused had resulted in the monstrous verdict against Busse and Ziegenmeyer. Wild had sworn that, between half-past seven and three-quarters past seven o'clock on the night of the murder, he had *seen* the two prisoners pass close by him. He recognized them by their voices, the one saying: "Would to heaven we were well out of this street!" and the other replying: "Hold your tongue." He had recognized their dress. Busse had on a blue smock—a proved untruth—the other a gray coat. Busse, too, he had marked clearly (though the night was dark) by his hand, *which had lost one finger!* Further, Wild stated this most improbable fact, that twelve, fourteen, or sixteen days after the murder, he had heard under the window Ziegenmeyer make his confession. He was, he afterwards swore, not clear whether Ziegenmeyer said this in his sleep or not. "I did not,"

said he, "impart this to the burgomaster, Sudendorf, till the 13th March, partly because I was afraid, and partly because one Baxmann had told me I dare not do so. I was not on good terms with Baxmann, but he several times tried to induce me to tell him all I knew about the murder. I never spoke to him about the reward, and it was another man, Helmke, who applied for it for me without my cognizance." The latter assertion was satisfactorily proved to be utterly false.

Sudendorf now declared, that on the first interview with Wild, he had told him nothing about having overheard Ziegenmeyer's conversation; and, indeed, the hesitating and hypothetical way in which he had at first opened the conversation with Sudendorf was a remarkable circumstance, but not allowed to have any weight attached to it in favor of the accused. Herrmann deposed that Wild had confided to him his evidence about recognizing the two men; that he not only believed it, but was actually of opinion that Wild himself, by repeating the story, himself believed it. Herrmann also affirmed that, as to the rest of Wild's statement, he had come to the conclusion that it was the man's invention, and this shook his belief in any of his statements. *When* he came to this conclusion is not made clear, nor is it worth much. The idea of a *diseased fancy* in Wild could not be entertained; medical testimony on this head overthrew the theory.

The magistrates before whom the first charge was heard, observed that Wild was uncertain and varying in all his evidence, except that of having met the two men in the street, as mentioned.

Baxmann swore that, when in talk with Wild, he had thrown doubt on Wild's evidence, who bade Baxmann be quiet and he should have half the reward. But Baxmann had not mentiond this fact before, because, said he, "no one had asked him about it."

Had Wild's testimony at the first been properly examined, and genuine statements only received from the witnesses, instead of the accumulation of gossip and hearsay and imaginary conversations, though the genius of German jurisprudence would have been outraged, the cruel injury perpetrated by courts of justice, so called, would have been saved.

But the end of these trials had not yet arrived, owing to the technical rules of criminal law. The former trial, in which Bruns with Busse had been indicted, had to be repeated. On the trial of 7th April, 1856, the former had been tried and condemned to death. In the following September he was once more put on his trial *alone*, and again condemned to death. Being required as a witness on Wild's trial for perjury in October, Bruns was kept alive for this purpose, and again had to give his oft-repeated account of the matter. This was the third occasion he had to detail his horrible confession. He was then taken back to Hildesheim, where he remained many weeks waiting his execution.

At last, on 28th November, the sentence was carried out, and Bruns was beheaded on a hill in the neighborhood of Hildesheim. It was one of those disgusting exhibitions not uncommon in this form of capital punishment. He was actually hacked to death. Four blows were inflicted, and the last, falling in a downward direction, severed the head from the trunk. Improving and civilizing scene! alike calculated to elevate the standard of humanity and lend dignity to the Law! It is recorded that, during his punishment, he received the consolations of religion with much edification, and wrote to his unhappy parents excellent and appropriate letters.

We might here end our account of these extraordinary proceedings, but we find in certain remarks of the learned editors¹ of the work to which we are indebted for the narrative, some passages which we think will be interesting to our readers at the present time—the more so, that trial by jury,² as established in England, has of late been, we may almost say, itself put on its trial, and its imperfections freely canvassed. These observations may, perhaps, lead us to maintain the opinion that, whilst the institution in question is not *perfect*, the experience of the procedure of other coun-

¹ Drs. Hitzig and Häring.

² The German editors affirm that, in England and North America, there are open associations formed, which bind their members never to give a verdict of "*guilty*" in capital cases. Surely, so far as England is concerned, they are misinformed. Isolated cases have occurred where jurymen have been so resolved; but the combination to break oaths, as suggested, is certainly unknown to us.

tries suggests the view that it is at least the *best possible* tribunal of which the present condition of society admits. The learned jurists, who have prepared the history of this case, observe that it is incumbent on them to inquire, *How it was possible* that justice should have so miscarried and so halted, and that the innocent should have been convicted of a capital offence? The old institutions of the Inquisition and the torture have often produced such consequences; but here, in modern Germany, the facts on which life and death depended were sifted by the *four* divisions or offices of justice. 1st. By the Examining Magistrates. 2d. By the Chamber of Councillors. 3d. By the Upper Court of Deputies. 4th. By the Impeachment Chamber.¹

The proceedings are next laid before the jury, and finally, the High Court of Justice have a right of veto or appeal, in the event of the verdict of guilty. There are, therefore, $1+3+1+5=10$ professional men engaged on such proceedings. *Ten* jurists watching the course of justice, should generally preserve a prisoner from an unrighteous verdict. Yet the contrary is the fact. Von Arnim, when Minister of Justice in Prussia, was so horror-stricken with the discovery of the defective working of the system in his country, that he exerted himself to bring about a reform. Within his knowledge no less than *six innocent people had been condemned to death*, and only saved from their fate by lucky accident. (See *Staats Lexicon*, von Rotteck and Welcker, IX. 52, Art. Jury.) Here at least it is observed, it is not the Institution of Jury which is to blame, for the learned jurists, as Welcker points out, are those to whom most of the blunders are referable, and the jury plays but an inconsiderable part in the trial. Besides, there is a common phrase, which cannot be too strongly condemned, which is often addressed to the jury before whom the facts are at last brought, having been previously moulded, dealt with, and decided on by "learned men." It is to the effect that "so many and such able state jurists have recognized the guilt of the accused, that you, gentlemen of the jury, can have but little difficulty in coming to the same safe conclusion."

¹ We render the technical term as well as we are able, but there are, of course, no institutions in England exactly corresponding to those in Hanover.

The mode of examination is the basis of all that is mischievous in the German procedure. It partakes of the nature of "cooking." The courts are indeed committees of prosecution. No cross-examination as to the motives of the witnesses, and the grounds of their statements, is permitted, as in England. Again, when a witness for the prosecution, like Wild, in the above case, breaks down, witnesses to *his* character are allowable, to reinstate his credit. Here Wild was held up as a good churchman and communicant! Further, hearsay evidence (when even the original testimony might have been had, if it was worth having) is recklessly entertained. Another egregious element for preventing justice is the bringing up the whole history and supposed character of the accused, as affording probabilities of his capacity for the particular crime laid to his charge. Such detail is sought for with the eye of suspicion, while there is great uncertainty which attends all investigations which belong to reputation, especially when the subject of the inquiries is not in a position to defend himself.

It is also well remarked, that when suspicion has been generally directed against a man the police follow the matter up, and are awake to all that weighs *against* the accused, but are blind to the counterbalancing evidence. "Trifles light as air" are so magnified and multiplied, that when they are brought before the court, shaped and colored, they assume an importance and significance utterly disproportionate to their real value. Barren facts assume the form of pregnant fallacies, and an unjudicial imagination constructs an ingenious and delusive fabric on a rotten and incoherent base.

COLLATERAL CONSANGUINITY.

Consanguinity or kindred is the connection or relation of persons descending from the same stock or common ancestor. Lineal consanguinity is the connection which subsists between persons of whom one is descended in a direct line from the other. Collateral kindred agrees with lineal in this, that they descend from the same stock or ancestor; but differing in this, that they do not descend one from the other.